IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE THIRTIETH DAY OF DECEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE G. BIKSHAPATHY

and
THE HON'BLE MR JUSTICE P.S.NARAYANA

WRIT PETITION NO : 23008 of 2004

Between:

Smt. K. Sobha Rani, W/o. M. Bhanu Murthy,
GLC Unit, Cumbum, Prakasam District.

..... PETITIONER

AND

1 The Director of Health Services, A.P., Sultan Bazar,

Koti, Hyderabad.
2 The Regional Director of Medical and Health Services,

Guntur Region, Guntur, Guntur District.
3 B. Krishna Reddy, S/o. Not Known, Guntur.
4 N. Mokshalingeswara Rao, GLC Unit Ponnur, Guntur, District.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to Issue a writ, order or orders, direction more particularly one in the nature of writ of certiorari calling for the records pertaining to the O.A.No. 6423/04 dt. 26.11.2004 on the file of Hon'ble A.P. Administrative Tribunal and quash the same and consequentially set-aside the impugned proceedings in Rc.No. 1486/B2/1998 dt. 20.11.2004 issued by the 2nd respondent as illegal, arbitrary, malafidy and contrary to G.O.Ms.No. 512 Fin (WM) Department, dt. 14.6.2004 and G.O.Ms.No. 767 Fin (WM) Department dt. 21.8.2002 issued by the Government and violation of principles of natural justice.

Counsel for the Petitioner: MR.A.CHANDRAIH NAIDU

Counsel for the Respondents 1 & 2: GP FOR SERVICES-I
Counsel for Respondent No.3: MR. EADARA PEDDANNA (Caveator for R.3)

The Court made the following:

ORAL ORDER:- **(Per GB,J.)**

The Writ Petition is filed challenging the order, dated 26.11.2004 passed by the Andhra Pradesh Administrative Tribunal in O.A.No.6423 of 2004.

2. The petitioner who is working at Cumbum as a Deputy Health Educational Officer made a request to transfer her to Guntur where her husband is working in view of G.O.Ms.No.512 Finance (W & M) Department, dated 14.6.2004 issued by the Government to post the spouse at one place.

3. However, the grievance of the petitioner is that instead of transferring her to Guntur, two persons were promoted and posted in the vacancies, which arose. She challenged the order of transfer in O.A. The Tribunal dismissed the same by observing as follows:

> "In the first instance, the applicant has no locus stand to question the promotions given to the unofficial respondents. The submission of the applicant is that she had earlier submitted representation to post her in one of the vacancies existing and the respondents instead of considering her case, posted the unofficial respondents on promotion, in those vacancies. No Government employee can get a preferential right to any particular post. When individuals are promoted, it is obvious that first they would be posted in existing vacancies. Incidentally if the applicants request cannot be considered in view of the promotion and posting of unofficial respondents, they do not give any cause of action for the applicant to question the same. It is always open to her to pursue her representation with the appropriate authorities, in case she has already filed, in respect of her request for transfer to a nearby place. The respondents may consider such request in accordance with Rules. As far as the claim of the applicant in this O.A. is concerned, it cannot be granted and the O.A. is therefore dismissed at the admission stage."

4. Learned counsel for the petitioner submits that the Government has issued specific directions to transfer as far as possible his spouse to one place. In the

instant case, there were two vacancies in Guntur and that were filled up by other persons on promotion. Learned counsel further submits that the petitioner is entitled to consider and transfer to Guntur.

5. We have heard the learned Government Pleader also. Inasmuch as the vacancies were already filled up, it is necessary that the second respondent shall consider the matter on request, keeping in view the orders issued by the Government on this aspect.

6. We are not inclined to interfere with the order of the Tribunal. However, we direct the second respondent to consider the case of the petitioner for posting at either Guntur or in Ponnur or in other nearby place, taking into consideration the place where her spouse is working within a period of six weeks from the date of receipt of a copy of this order.

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G. BIKSHAPATHY, J.

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P.S. NARAYANA, J.

Date: 30.12.2004

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To

1 The Director of Health Services, A.P., Sultan Bazar,

Koti, Hyderabad.

2 The Regional Director of Medical and Health Services,

Guntur Region, Guntur, Guntur District.
3 2 CCs to the G.P for Services I, High Court Buildings, Hyderabad (O.U.T).

4 The Registrar, A.P.A.T., Hyderabad.

4 2 CD copies